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REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-16 and 19-22 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-16 and 19-22 are now pending in this application.

In the May 23, 2006 Office Action, the Examiner objected to claims 2-10, 14-16 and 9-22 due to a number of informalities. In response to these objections, Applicant has amended all of the claims to which the Examiner objected, incorporating the Examiner's suggestions for most of these claims. Applicant has made a number of other minor amendments to the claims for stylistic reasons. It should be noted that, in making amendments to address antecedent basis and similar issues, Applicant is not intending to surrender any claim scope with regard to the Doctrine of Equivalents. The Examiner is encouraged to contact the Attorney for Applicant if this poses any issue with the prosecution of this application.

The Examiner rejected claims 1-7, 9-16 and 19-22 under 35 U.S.C. §102(e) as, in the Examiner's view, being anticipated by U.S. Patent No. 6,430,177, in the name of Luzeski et al. For the following reasons, Applicant respectfully traverses this rejection.

First, with regard to claims 1-10, 14-16 and 19, Applicant notes that all of the individual processes are to occur within a single network entity and are not distributed among multiple entities. This is not the case in Luzeski et al., where different entities perform different actions. This fact is clearly delineated in Column 13, lines 18-33; Column 14, lines 6-12; and Figures 1 and 4A of Luzeski et al., where it is discussed how the UVMS custom

client 10-7 completely controls end user presentation issues, while the Content Manager 12-2 is responsible for the generation and maintenance of the messages. In other words, one entity is responsible for the forming of the "notification message," while an entirely separate entity is responsible for making the message be in accordance with the "recipient data."[1] In fact, Figures 1 and 4A conclusively show that the Custom Client and the Content Manager are not even located within the same platform, much less the same entity. As such, the system described in Luzeski et al. does not teach or suggest the requirement of independent claim 1 and its dependent claims that all of the processes occur in a network entity. The same is also true for claims 11 and 20, which refer to a single network entity, and claims 13 and 22, which refer to an apparatus having a computer program for causing a network entity to perform the actions at issue. Applicant submits that these claims are allowable for at least this particular reason.

In addition to the above, Applicant submits that each of the claims as amended are clearly patentable due to Luzeski et al.'s failure to teach or even suggest a network entity forming a notification message in accordance with a recipient's multimedia reception capabilities and/or reception preferences. As was discussed at length in Applicant's March 20, 2006 Amendment and Reply, the Luzeski et al. reference describes the use of a fixed environment inbox that is accessible with different terminals. In this system, a user opens an inbox, upon which the contents of the inbox are shown and the user can download messages of interest. Although a server is used, the Luzeski et al. reference does not teach or even suggest how the server could account for preferences and capabilities of a recipient.

In the May 23, 2006 Office Action, the Examiner took the position that the accounting of a recipient's capabilities or preferences was not recited in the rejected claims. Without taking a position with regard to this position, Applicant has amended the independent claims to describe the message as being formed in accordance with the at least one of multimedia reception capabilities and reception preferences, rather than in accordance with recipient data. As such, the various independent claims clearly describe a process by which a

[1] In making this statement, Applicant is not explicitly or implicitly agreeing with other interpretations of Luzeski et al. Additional arguments are subsequently provided in this Response.

network entity (1) accesses a database containing such reception capability and/or reception preference information and (2) forms a notification message in accordance with these capabilities and/or preferences. Such a feature is neither taught nor suggested by Luzeski et al. As discussed previously, Luzeski et al., and particularly column 13, lines 18-33, describes nothing more than how a client application uses downloaded messages or content messages. Luzeski et al. does not describe reception preferences and/or capabilities. Furthermore, even if Luzeski et al.'s teachings were interpreted to include reception preferences and/or capabilities, the reference still fails to teach a single network entity that both access the information and prepare a notification in accordance with the information. As discussed in detail above, different entities are responsible for generating the notification and providing the preference information, a substantial difference from what is described in the pending claims.

In the May 23, 2006 Office Action, the Examiner asserted that column 4, lines 15-24 of Luzeski et al. teaches the storing of "capabilities and preferences." This is incorrect. It is respectfully noted that the independent claims require the use of reception capabilities and preferences, not general reception and preference information. With this fact in mind, Luzeski et al. contains not such teaching. First, it is noted that, contrary to the Examiner's assertions, Column 4, lines 15-24 of Luzeski et al. contains absolutely no reference to "customer messaging clients and user profile/subscription" information. Second, even if such information was taught in this section, such information is not the same as reception capability and preference information. One skilled in the art would have no difficulty understanding that "reception capability and/or preferences" refer to features such as (1) whether a user agent is capable of receiving and reproducing media content to be streamed; (2) whether the media content to be streamed requires translation in order to make it compatible with the capabilities of the user agent; (3) whether that translation can be affected; and (4) whether streaming downloading of the content is supported. (All of these capabilities and preferences are discussed in page 19, lines 22-28 of the present application, for example.) No capabilities and preferences of these types are discussed in Luzeski et al., and one skilled in the art would not confuse the information provided in Luzeski et al. with reception capabilities and/or preferences.

For all of the above reasons, Applicant submits that claims 1-7, 9-16 and 19-22 are patentable over Luzeski et al.

Lastly, the Examiner also rejected claim 8 under 35 U.S.C. §103(a) as being obvious over Luzeski et al. in view of U.S. Patent No. 6,546,427, issued to Ehrlich et al. For at least the reasons discussed above, Applicant submits that this claim is also allowable over the cited prior art. In particular, it is noted that Ehrlich et al. does not cure the deficiencies of Luzeski et al., namely the features of having all of the individual processes occurring in a network entity or the formation of the notification message being in accordance with multimedia reception capabilities and/or reception preferences. In addition, it is also noted that Ehrlich et al. relates to a web radio in which an Internet Service Provider can replace advertisements with its own commercial data. However, a web radio is not configured for "receiving media content from a sending entity and addressed to at least one recipient," nor is it configured to form notification messages that media content is available for streaming. Therefore, it is further improper to combine the teachings of Ehrlich et al. with Luzeski et al., as one skilled in the art would consider Ehrlich et al. to be irrelevant to the processes described in Luzeski et al.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for

such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date November 22, 2006

By _____

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